



United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
FILLMORE FIELD OFFICE

35 East 500 North  
Fillmore, UT 84631



In Reply Refer to:

3800

(U-010)

UTU-079464-01

August 20, 2002

CERTIFIED MAIL #7000 1530 0006 2417 0563  
RETURN RECEIPT REQUESTED

LARRY L DUTSON  
140 N 150 E  
DELTA UT 84624

Dear Mr. Dutson:

The Plan of Operations for your Burgundy building stone quarry, located in Section 30, T. 18 S., R. 13 W., has been approved, subject to the enclosed mitigations and following stipulations.

Before commencing operations you must:

1. Submit to this office a reclamation cost estimate which has been calculated as if the BLM were hiring a third-party contractor to perform reclamation of your operations after you have vacated the project area. Enclosed is a form which you may use to calculate your reclamation costs. You may calculate the costs in incremental portions for each phase of your operation.

Upon our concurrence with your calculations, you must post an acceptable financial guarantee to the Utah State Office of the BLM. The financial guarantee must be sufficient to reclaim the areas you anticipate disturbing within the next 12 months.

2. The information you submitted to support your contention that the Burgundy Stone is a locatable deposit is not adequate to support your claim. A market analysis of the stone must be conducted to determine if the stone meets the fifth standard set by Court to determine uncommon variety:

"The distinct and special value must be reflected in the market place (or in reduced cost or overhead) so that the profit to the claimant would be substantially more."

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DIVISION OF  
OIL, GAS AND MINING



Therefore, you must establish an escrow account for the value of the material you intend to remove within the next six months. We have estimated the appraised value of the stone to be \$5.00 per ton. You must keep records of your production, and not exceed the tonnage estimated before depositing the appraised value of the next six months of production into the account.

During that six months, we anticipate conducting a site-specific appraisal and/or market analysis of the stone. If the market analysis indicates that it is a common-variety material, we will continue to require an escrow account, adjusted to the amount determined by the site specific appraisal, until a validity exam can be completed.

If you do not agree with any of these terms, you have the right to request review by the Utah State Director (SD), of the Bureau of Land Management, in accordance with 43 CFR 3809.800. If you exercise this right, your request, accompanied by a brief written statement explaining why we should change our decision and any documents that support your written statement, must be filed in writing within 30 days after you receive this decision. The envelope should be marked "State Director Review" and sent to the following address:

BUREAU OF LAND MANAGEMENT  
UTAH STATE OFFICE  
PO BOX 45155  
SLC UT 84145-0155

You should include a telephone or fax number by which the SD can contact you. If the SD does not make a decision within 21 days on whether to accept your request for review, you should consider your request declined, and you may appeal this decision to the Office of Hearings and Appeals (OHA). You may also appeal to OHA if the SD's decision is adverse to you. You must file a notice of appeal to this office within 30 calendar days of the date you receive the SD's decision or decision not to review.

You may also bypass State Director review, and appeal directly to OHA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. You have the burden of showing that the decision appealed from is in error.

If you wish to file a petition to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals (Board), the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each part named in this decision and to the



Board, and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

**Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

This decision will remain in effect during review and appeal unless a written request for a stay is granted.

If you have any questions, please contact Jerry Mansfield at (435) 743-3125.

Sincerely



Rex Rowley  
Field Office Manager

Enclosures

Mitigations  
Reclamation Cost Estimate Worksheet  
Form 1842-1

**ACTING**

cc: Tom Munson, UDOGM (S/027/098)  
Mert Hamilton, PO Box 35, Delta, UT 84624